THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO.1196 OF 2006

13th November 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28.03.2006 in W.P.NO.22854 OF 2005 on the file of the High Court.)

Between:

The Depot Manager, APSRTC, Ranigunj Depot-II, Ranigunj, Secunderabad.

...APPELLANT

AND

1. SriS.Shankar, S/o.Yadagiri, R/o.Somarajugudem (V), Aler (Mandal), Backside of MDO, Nalgonda District.

And two others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO.1196 of 2006

JUDGMENT: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order of the learned Single Judge in W.P.No.22854 of 2005 dated 28.03.2006, dismissing the Writ Petition holding that the award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India did not call for interference, the present appeal is filed by the APSRTC.

The first respondent was a driver with the APSRTC. On the ground that a scooterist fell down under the rear wheel of the bus resulting in his death, an enquiry was held and the first respondent was removed from service. Aggrieved thereby, he approached the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad in I.D.No.84 of 2002. The Labour Court, by its award dated 21.03.2005, set aside the order of removal from service and directed the appellant herein to reinstate the

first respondent into service, with continuity of service and attendant benefits with only 50% back wages. The Labour Court, on reappreciation of the evidence on record, noted that the scooterist had tried to overtake the bus from the left side, that the first respondent on noticing another bus overtaking from right side, had turned the bus, resulting in the scooterist hitting the bus and falling down under the rear wheel. The Labour Court held that it was not rash or negligent act on the respondent's part but due to lack of anticipation, the accident had occurred. The Labour Court came to the conclusion that since it was the rear wheel under which the scooterist had fallen down, it was not a case where the scooterist had been hit from behind, that since the scooterist was coming on the left side of the bus, i.e., wrong side, the first respondent was not at fault. The Labour Court held that the charges levelled against the first respondent herein were not based on any material, that the punishment of removal awarded by the employer on these findings was not correct and that the respondent was entitled to reinstatement into service, with continuity of service and attendant benefits, but with 50% back wages. The learned Single Judge, on taking note of the findings of the Labour Court, held that the award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, did

not call for interference and that the petitioner-Corporation had failed to point out any infirmities. The Writ Petition was dismissed as devoid of merits.

Sri V.T.M.Prasad, learned Standing Counsel for the appellant-Corporation would submit that the Labour Court had failed to take into account the sketch, which was produced at the time of the accident and that the Labour Court ought not to have interfered with the punishment imposed by the employer. We are afraid, we cannot agree. It is well established that in proceedings under Article 226 of the Constitution of India this Court will not sit in appeal over finding of fact recorded by the Industrial Tribunal-cum-Labour Court and it is only if the finding is established to be perverse or based on no evidence or if relevant material has not been considered or irrelevant material has been taken into consideration would this Court interfere. No such illegality or infirmities have been pointed out by the appellant-Corporation before us. While it is true that the Labour Court should be cautious in interfering with the punishment awarded by the employer, the fact remains that the Labour Court, under Section 11-A of the Industrial Disputes Act, 1947 has the power to reappreciate the evidence on record, examine the proportionality of the punishment imposed and if need be, substitute the

punishment imposed by the employer with another punishment. The learned Single Judge, in our view, has rightly held that no interference is called for in the exercise of the certiorari jurisdiction of the High Court. We see no reason to interfere with the order of the learned Single Judge.

The Writ Appeal fails and is accordingly dismissed. No costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

13th November 2006
RRB